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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

W.P.Nos. 22574 to 22580/1994

1. V.Jayaramappa
S/o late Veeranna,
aged about 50 years,
residing at Mungasavalli,
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.
2. Ramanna S/o Kariyanna,
aged about 33 years,
R/o Mungasavalli,
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.
3. Siddanna S/o Ningappa,
aged 48 years,
residing at Mungasava
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.
4. Thimmadasanna
S/o Obanna,
aged 45 years,
residing at Mungasava
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.
5. S.Lingappa
S/o late Siddappa,
aged about 53 years,
residing at Mungasava
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.

6. Dodda Erappa
S/o Sanna Erappa,
aged 38 years,
R/o Mungasavalli,
Dharmapura Hobli,
Chitradurga District.

7. Govindajjanavara Chikkanna
S/o Thimmanna,
aged 68 years,
residing at Mungasava
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.

.. Petitioners

(By Sri H.Billappa,
Advocate)

Vs.

1. The State of Karnataka
represented by its
Secretary,
Revenue Department,
Vidhana Soudha,
Bangalore-1.
2. The Deputy Commissioner,
Chitradurga District,
Chitradurga.
3. The Assistant Commissioner
and Land Acquisition Officer,
Chitradurga Sub-Division,
Chitradurga.
4. Chikkappa
S/o late Kattalu Chikkappa,
aged 73 years,
R/o Mungasavalli village,
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.

5. C.Halappa
S/o Chikkappa,
aged 22 years,
R/o Mungasavalli village,
Dharmapura Hobli,
Hiriyur Taluk,
Chitradurga District.

.. Respondents

(By Sri A.S.Mahesh,
Government Advocate
for Respondents 1 to 3)

Writ Petitions filed under Articles 226 and 227 of the Constitution of India with an affidavit praying for the quashing of the notification dated 21st of April 1992 issued under Section 3(1) of the Karnataka Acquisition of Land for Grant of House Sites Act vide Annexure-Q; the notification dated 22nd of July 1993 issued under Section 3(4) of the said Act vide Annexure-R and also the Award dated 13th of July 1994 vide Annexure-P, etc.

These petitions coming on for hearing and the same having been heard and reserved, the Court this day pronounced the following:

O R D E R

The petitioners, in these petitions, are the owners of small bits of land measuring from 3 guntas to 12 guntas in Re-Survey No.1/3A of Mungasavalli village, Dharmapur Hobli, Hiriyur Taluk, Chitradurga District, having purchased the same by means of sale deeds dated 11th of December 1991 and 19th of December 1991 from respondents 4 and 5, who are the owners of the said lands.

2. In these petitions, they have called in question the correctness of the notification dated 21st of April 1992, a copy of which has been produced as Annexure-Q, issued under sub-section (1) of Section 3 of the Karnataka Acquisition of Land for Grant of House Sites Act (hereinafter referred to as "the Act") and the notification dated 22nd of July 1993, a copy of which has been produced as Annexure-R, issued under Section 3 of the Act. They have also prayed for quashing the Award dated 13th of July 1994, a copy of which has been produced as Annexure-P. As



stated earlier, it is the case of the petitioners that each of them has purchased a small bit of land comprised in R.S.No.1/3A of Mungasavalli village from respondents 4 and 5 for the purpose of construction of residential buildings and for other allied purposes and all of them are very poor persons and except the land purchased by them, which is the subject matter of dispute in these petitions, they have no other land. It is their further case that though immediately after the purchase of the lands in question in December 1991, the Khata in respect of the said lands came to be transferred in their names. However, without any notice to them and without giving them any opportunity, the notifications impugned in these petitions came to be issued.

3. Sri Billappa, learned Counsel appearing for the petitioners, submitted that though the names of the petitioners have been referred to in the Award and the Khata in respect of the lands in question came to be transferred in the names of the petitioners,



the impugned notifications came to be issued without hearing the petitioners and without giving them an opportunity to file their objections for the acquisition of the lands in question. He further submitted that the impugned notifications are also liable to be quashed on the ground that the report of the Block Development Officer had not been obtained as required, though his report was called for. Sri Billappa also submitted that there are large extents of Government lands which are available for distribution of house sites; and under these circumstances, there is absolutely no justification to acquire the lands in question.

4. Sri A.S.Mahesh, learned Government Advocate, submitted that since the names of the petitioners were not found in the revenue records on the date of issue of the notification under sub-section (1) of Section 3 of the Act, the petitioners ~~were~~ not notified and on the other hand, notices were issued to the vendors of the petitioners; and, therefore, the petitioners cannot have



any grievance on the ground that they were not heard before issuing the notification under sub-section (4) of Section 3 of the Act. However, he did not dispute that the report of the Block Development Officer had not been obtained.

5. Sri Reddy, learned Counsel appearing for the applicants, who have filed an application-I.A.I seeking permission to come on record as supplemental respondents on the ground that the lands in question are sought to be acquired for the benefit of the members of the public, who are in need of house sites, strongly supported the impugned notifications.

6. Having heard the learned Counsel for the petitioners, learned Government Advocate and also Sri Reddy, learned Counsel for the applicants, I am of the view that the petitioners are entitled to succeed in these petitions.

7. As can be seen from the averments made in the writ petitions, each of the



petitioners except the first petitioner, who is the owner of the land measuring 12 guntas, own: land measuring 3 to 6 guntas, which is the subject matter of dispute in these petitions. It is their case that except the land in question, they have no other land. It is their further case that petitioners 2 and 3 have constructed house in their respective portions of the land purchased by them and petitioners 4, 5, 6 and 7 are using their respective lands for the purpose of stocking hay etc. It is not disputed by the respondents that the petitioners have no other land except the land in question. Under these circumstances, it is clear that all the petitioners are very small and poor persons, who are entirely depending upon the land in question. Further, it is their case that all of them belong to weaker section of the society. Having regard to the facts and circumstances of the case and more particularly the fact that all the petitioners belong to the weaker section of the society owning small bits of land and they have developed the lands in question by

constructing building etc., if the petitioners were to be given an opportunity and heard in the matter, it would be doubtful whether the Authorities would have proceeded to acquire the lands in question for the purpose of distribution of house sites to the weaker sections of the society. Under these circumstances, I am of the view that it would be in the interest of justice to quash the notifications impugned. Though in a matter like this, normally I would not have interfered with the notification issued under sub-section (1) of Section 3 of the Act, as observed by me earlier, the petitioners are the owners of small bits of lands and since the notification under sub-section (4) of Section 3 of the Act was issued as far back as on 22nd of July 1993, I am of the view that no serious injustice or prejudice would be caused to the public if the notification issued under sub-section (1) of Section 3 of the Act is also quashed reserving liberty to the Authorities to issue fresh notification, if they so desire.

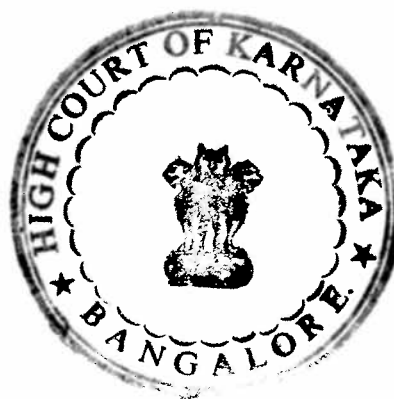


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8. Accordingly, these petitions are allowed and the notification Annexure-Q dated 21st of April 1992 and also the notification Annexure-R dated 22nd of July 1993 are hereby quashed. Consequently, the impugned Award Annexure-P dated 13th of July 1994 is also quashed. Rule issued is made absolute.

9. - Sri A.S.Mahesh, learned Government Advocate, is permitted to file his memo of appearance within four weeks from today.

Sd/-
JUDGE



ANB.